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09/809,155	03/05/2001	Richard Gary McDaniel	00 P 7500 US01	5378

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Siemens Corporation
Attn: Elsa Keller, Legal Administrator
Intellectual Property Department
186 Wood Avenue South
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EXAMINER
HARTMAN JR, RONALD D

ART UNIT	PAPER NUMBER
2121	

MAIL DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *21 February 2008*.
2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-23* is/are pending in the application.
    4a) Of the above claim(s) *21-23* is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) *1-2, 4-9 and 11-20* is/are rejected.
7)☒ Claim(s) *3 and 10* is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All   b)☐ Some * c)☐ None of:
        1.☐ Certified copies of the priority documents have been received.
        2.☐ Certified copies of the priority documents have been received in Application No. _____.
        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 101

1.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 8-16 and 19 are directed to non-statutory subject matter.

Claim 8 claims a product comprising a computer readable medium. Dependent claim 16 limits this medium to two mediums of particular concern, those being a file which is capable of being downloaded from an internet site (in other words a file since the downloading from the internet site step is not required by the pending language) and an email file, which is essence another file. A file is merely a representation of data, and in order for the claims to be statutory, the data must be tangibly embodied on a physical medium. Therefore, in light of claim 16, it can be seen that claim 8 includes a product which is merely a file, thereby encompassing subject matter that is deemed to be non statutory since it represents functional descriptive material that is not structurally and functionally interrelated to a tangible medium.

Claim Rejections - 35 USC § 102

2.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

only if the international application designated the United States and was published under Article 21(2)
of such treaty in the English language.

3.   Claims 1, 4-8 and 11-20 are rejected under 35 U.S.C. 102(b) as being

anticipated by Gamut: Demonstrating Whole Applications, by Richard G. McDaniel and

Brad A. Myers.

       Also, claims 1, 4-8 and 11-20 are rejected under 35 U.S.C. 102(b) as being

anticipated by Building Applications Using Only Demonstration, by Richard G. McDaniel

and Brad A. Myers.

       Claim 1 recites a computer programming method comprising the steps of:

       -       providing a programming by demonstration (PBD) tool for combining

programming of a control program and of its user interface and thereby producing the

control program and its user interface at the same time, said PBD tool including a library

of widgets, an editor configured to operate in a manner that allows editing including

manipulating any of the widgets, and an inference engine for recording and processing

said manipulation to produce code that is capable of being executed; and

       -       providing an input/module mechanism, interfacing with the PBD tool, for

coupling the widgets to input and output signals of the automation process, wherein the

code that is capable of being executed is used to control the automation process; and

       -       wherein each of the widgets is a graphical representation of an object

element of said automation process.

       Examiner Note: Automation is defined as the automatic operation or control of

equipment, a process, or a system. It is the examiners opinion that a video game is a

process that is automated.

       As per claim 1 and 17-19, the method is believed to be adequately anticipated by

Gamut: Demonstrating Whole Applications, by Richard G. McDaniel and Brad A. Myers

(e.g. see pages 81-82).

Also, this method (claims 1 and 17-19) is anticipated by Building Applications Using Only Demonstration, by Richard G. McDaniel and Brad A. Myers (e.g. see pages 109-116).

As per claims 4-6, it is believed that both of the aforementioned references adequately disclose feedback being used for programming the video games.

As per claim 7, the aforementioned references teach programming and user interface widgets (e.g. see Figures 1-4).

As per claim 8, the rejections of claim 1 are applied herein.

As per claims 11-13, the rejection of claims 4-6 are applied herein.

As per claim 14, the rejections of claim 7 are applied herein.

As per claim 15, the rejections of claim 17 are applied herein.

As per claim 16, since both of the aforementioned references disclose a software program performing the functions of Gamut, a file is adequately disclosed. It is noted that the claims do not actually require the file to be loaded, only that the file is capable of being downloaded from the internet. There is simply no disclosure that would lead one to conclude that the software discussed in the aforementioned references is precluded from being obtained via a download from the internet.

As per claim 20, the rejections of claims 1 and 8 are applied herein.

4.   Claims 1, 4-8 and 11-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Getting More Out Of Programming-By-Demonstration, by Richard G. McDaniel and Brad A. Myers (e.g. see pages 442-449).

Claim 1 recites a computer programming method comprising the steps of:

- providing a programming by demonstration (PBD) tool for combining programming of a control program and of its user interface and thereby producing the control program and its user interface at the same time, said PBD tool including a library of widgets, an editor configured to operate in a manner that allows editing including manipulating any of the widgets, and an inference engine for recording and processing said manipulation to produce code that is capable of being executed; and

- providing an input/module mechanism, interfacing with the PBD tool, for coupling the widgets to input and output signals of the automation process, wherein the code that is capable of being executed is used to control the automation process; and

- wherein each of the widgets is a graphical representation of an object element of said automation process.

Examiner Note: Automation is defined as the automatic operation or control of equipment, a process, or a system. It is the examiners opinion that a video game is a process that is automated.

As per claims 4-6, it is believed that the aforementioned reference adequately discloses feedback being used for programming the video games.

As per claim 7, the aforementioned reference teach programming and user interface widgets (e.g. see Figures 1-2).

As per claim 8, the rejection of claim 1 is applied herein.

As per claims 11-13, the rejection of claims 4-6 are applied herein.

As per claim 14, the rejection of claim 7 is applied herein.

As per claim 15, the rejection of claim 18 is applied herein.

As per claim 16, since the aforementioned reference discloses a software program performing the functions of Gamut, a file is adequately disclosed. It is noted that the claims do not actually require the file to be loaded, only that the file is capable of being downloaded from the internet. There is simply no disclosure that would lead one to conclude that the software discussed in the aforementioned reference is precluded from being obtained via a download from the internet.

As per claim 20, the rejection of claims 1 and 8 are applied herein.

Claim Rejections - 35 USC § 103

5.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 2 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over the rejections as set forth above, in view of Official Notice.

As per claims 2 and 9, although none of the aforementioned references disclose that the code created can be compiled so as to be able to be run on a different computer, compiling code is notoriously well known in the art. Further, it is notoriously well known that code, especially for programmed vide games, will not typically only be used on one computer, and therefore it is notoriously well known to compile the code so as to be able to run on more than one computer, and this would have been obvious to one of ordinary skill in the art for the purpose of allowing the created video game to be shared with others by allowing the video game to be played on other computers.

Allowable Subject Matter

6.   Claims 3 and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

7.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronald D. Hartman Jr. whose telephone number is (571) 272-3684. The examiner can normally be reached on Mon.-Fri., 11:00 - 8:30 pm, EST.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ronald D Hartman Jr./
Primary Examiner, Art Unit 2121
6/20/08
RDH